

REMARKS

Applicant thanks the Examiner for review of the present application.

The Office Action of January 22, 2007, rejects Claims 36-47, 49-58, 62-70, and 72-74 under 35 U.S.C. § 112, first paragraph. Claims 36-47, 49-58, 62-70, and 72-74 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,966,696 to Giraud ("the '696 Giraud patent") in view of U.S. Patent 5,848,830 to Castle ("the '830 Castle patent").

Summary of Examiner Interview

Applicant thanks the Examiner for the Interview on March 19, 2007.

Applicant notes Examiner's discussion of the Office Action relating to the claim language "modifiable electronic display." Applicant also notes Examiner's discussion of the Office Action relating to the claim language "a modifiable electronic display configured to occupy an area of a floor." Examiner stated that the display in the '696 Giraud patent may be placed on the floor with the screen being vertical, i.e. perpendicular to the floor, and thereby occupying an area of the floor.

Applicant submits herewith remarks for consideration.

REJECTION UNDER 35 U.S.C. § 112

The Office Action rejects Claims 36-47, 49-58, 62-70, and 72-74 under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. In particular, the Office Action states that there is no support in the original disclosure for the limitation "modifiable electronic display." Applicant respectfully disagrees that "modifiable electronic display" is not in the original disclosure. In paragraph 076, the original disclosure states "[i]t is also contemplated that a modifiable electronic display surface could be provided, such as, for example, a liquid crystal display. The display could be connected to a computer and a computer generated image could be displayed on the display. Thus, the image displayed on the display could be modified by generating a different computer image and displaying that computer image on the display." Applicant submits that this portion of the disclosure and other portions support

“modifiable electronic display” as a claim limitation. Accordingly, Applicant respectfully submits that the written description requirement is satisfied and, therefore, the § 112 rejection is traversed.

REJECTIONS UNDER 35 U.S.C. § 103(A)

The Office Action rejects Claims 36-47, 49-58, 62-70, and 72-74 under 35 U.S.C. § 103(a) as being unpatentable over the ‘696 Giraud patent in view of the ‘830 Castle patent. Applicant submits that there is a lack of motivation to modify the ‘696 Giraud patent, such as by combining it with the ‘830 Castle patent, to reposition and reconfigure the electronic display of the ‘696 Giraud patent on an area of a floor *and in a plane substantially horizontal to the floor*. In particular, Applicant respectfully submits that the combination of the above noted references does not achieve the claimed invention and any interpretation finding otherwise is improper as “hindsight” used for determining obviousness. The Supreme Court has frequently warned against the use of hindsight in determining obviousness. See, e.g., *Diamond Rubber Co. v. Consolidated Rubber Tire Co.*, 220 U.S. 428 (1911).

Notwithstanding the above, the claims have been amended so as to more clearly distinguish over the cited prior art. Specifically, claims 36, 42, 52, 54, 62, and 65 have been amended to recite in a plane substantially horizontal to a floor. Support for this amendment can be found, for example, in Figure 40 showing display 4006.

Turning to the obviousness rejection of the claims, the ‘696 Giraud patent relates to a system that displays advertising information and measures the number of consumers watching the display. The ‘830 Castle patent merely teaches that static poster substrates are inserted into a pocket of a floor mat (col.2, ll.60-61). The ‘696 Giraud patent does not disclose how to reposition or reconfigure the electronic display on a floor and in a plane substantially horizontal to the floor. Indeed, the ‘696 Giraud patent does not disclose a way of protecting motion detectors and other similar parts from impact forces, not to mention the general wear and tear that come with occupying an area of a floor. Neither the ‘830 Castle patent nor the ‘696 Giraud patent teaches how to protect the system in Giraud from being walked over or stood upon if

positioned on a plane substantially parallel with the floor and configured on the floor. In addition, the functioning of the motion detector and optical scan/camera of the '696 Giraud patent teach having the system in Giraud positioned vertically or perpendicular to the floor in order to recognize facial features of consumers. (See col.5, ll. 58-59). Therefore, Applicant submits that there is no motivation to combine the references to achieve the claimed invention. Thus, the '830 Castle patent would not motivate one of ordinary skill in the art to modify the '696 Giraud patent to create a modifiable electronic display in a plane substantially horizontal to a floor and configured to occupy an area of the floor.

Applicant submits that one of ordinary skill in the art would not have realized that the teaching of the '830 Castle patent motivates configuring the display in the '696 Giraud patent so that it occupies the ground and *in a plane substantially horizontal to the ground*. Accordingly, Applicant submits that the amendments to the claims in view of these arguments overcome the § 103(a) rejections.

New Claims

New Claims 75 through 80 are added above, each of which includes features not disclosed by the cited references. For example, Claim 75 recites an advertising system that includes an electronic display in a plane substantially horizontal to a floor, configured to occupy an area of the floor, and configured to generate and display an image, at least one motion sensor for detecting motion, a memory comprising instructions for illuminating the electronic display, and a controller, that is in electrical connection with the electronic display, the sensor and the memory and that reads the memory and activates the electronic display in response to a signal from the sensor, wherein the electronic display is further configured to electronically modify the displayed image.

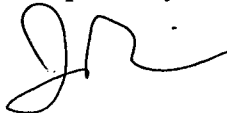
Appl. No.: 10/074,026
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Conclusion

In view of the foregoing comments, Applicant submits that all of the pending claims of the present application are in condition for allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present invention.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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